

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES EDWARD LUCKETT,

Petitioner,

v.

LANDON BIRD,

Respondent.

Case No. [22-cv-06634-HSG](#)

**ORDER GRANTING PETITIONER'S
UNOPPOSED REQUEST TO STAY
ACTION; STAYING ACTION;
ADMINISTRATIVELY CLOSING
CASE**

Re: Dkt. No. 7

Petitioner, an inmate at Valley State Prison in Chowchilla, California, filed this *pro se* action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Plaintiff is in custody pursuant to a 2015 state court conviction from Alameda County Superior Court. Dkt. No. 1 at 1, 7. In this petition, Petitioner challenges the state court's 2020 denial of his request for resentencing under Cal. Penal Code § 1170.95.¹ *See generally* Dkt. No. 1. Petitioner had previously filed a federal habeas petition challenging the 2015 state court conviction, C No. 18-cv-7670 HSG, *Lockett v. Neuschmid* ("*Lockett I*"), which is currently on appeal before the Ninth Circuit Court of Appeals, C No. 21-15391 ("*Lockett II*"). The parties agree that the resentencing claim in this petition will be moot if Petitioner prevails on appeal in *Lockett II*, and agree that a stay of this action pending resolution of *Lockett II* would be appropriate. Dkt. Nos. 6, 7. Accordingly, the Court GRANTS Petitioner's unopposed request to stay this action, Dkt. No. 7, and STAYS this action.

If the Ninth Circuit's decision in *Lockett II* does not moot the relief sought in this action, Petitioner may return to this Court and ask that the stay be lifted and that his petition be

¹ Cal. Penal Code § 1170.95 has now been renumbered as Cal. Penal Code § 1172.6.


1 considered on the merits. If Petitioner does not take any further action after *Lockett II* is decided,
2 this case will remain stayed and he will not receive any ruling from the Court on his petition.

3 The Clerk is directed to STAY this action and ADMINISTRATIVELY CLOSE the file
4 pending the stay of this action. The administrative closure of this action has no legal effect; it is
5 purely a statistical procedure.

6 This order terminates Dkt. No. 6.

7 **IT IS SO ORDERED.**

8 Dated: 3/23/2023

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10 HAYWOOD S. GILLIAM, JR.
11 United States District Judge
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